

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No 129 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE R.P.DHOLAKIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

JIVRAJBHAI LIMBABHAI PATEL

Versus

GOVERNMENT OF GUJARAT

Appearance:

MR M.K. PATEL, for Petitioner

MR SA PANDYA, APP for Respondent No. 1

MR SADHANA SAGAR for respondent Nos.3 and 5

CORAM : MR.JUSTICE R.P.DHOLAKIA

Date of decision: 09/02/99

C.A.V. JUDGEMENT

Present applicant-original complainant,
Jivrajbhai Limbabhai Patel, has filed the present Criminal Revision Application against the judgment and order passed by the learned Chief Judicial Magistrate, Rajkot on 23-12-1996 acquitting the present opponents Nos.3,4 and 5, who are original accused Nos.1,2 and 3 in

2. The short facts leading to the applicant's case are that the applicant, who is living with his wife in Bhaktinagar Station Plot, Sheri No.12 Slum area, Rajkot since last 30 years, was being harassed by the Vagri community for not keeping liquor in his slum as asked by them. As he refused to keep the same, the present opponents looted his slum and put on fire his slum as a result of which, he lost his entire household articles. Police authorities are not taking interest in the complaints made by him and accused are being freed from the allegations. No offences are being registered against the accused. Therefore, the applicant had approached the Police Commissioner, Rajkot 'C' Division Police Station and Home Minister, State of Gujarat, but his case was not seriously taken by them. The present opponents are giving abusive words to his wife. His slum was sold by the present opponents to other person and he could not get any justice from the Police. Learned Chief Judicial Magistrate, after hearing the arguments of both the parties and on appreciating the evidence, acquitted the accused. Therefore, the present revision application is preferred.

3. I have heard learned counsel for the applicant, Mr.M.K.Patel and learned APP, Mr.S.A.Pandya for the State.

4. Mr.M.K.Patel has mainly argued that proper charge was not framed by the Court below and Court has also not properly appreciated the evidence led by the prosecution. He has further argued that prosecution has proved its case against the original accused beyond reasonable doubt and Court below ought not to have acquitted the opponents-original accused.

5. I have gone through the evidence which was suggested to be read by the learned Additional Public Prosecutor. It reflects from the record and proceedings that in this case, prosecution has examined only the complainant Jivrajbhai Limbabhai Patel and closed their evidence by filing the purshis exh.13 stating that they do not want to lead any other oral evidence and, therefore, Court below has not recorded the further statement of the accused under sec.313 of Cr.P.C.

6. It is to be noted that though complainant has been examined by the prosecution at exh.11, he has not supported the say of the prosecution. In the examination-in-chief, he has admitted that he has not

seen the incident and he came to know about the same when it was informed by one Sharadaben. According to him, he had not visited the Police Station for the purpose of filing the FIR. In the cross-examination, he has categorically admitted that he had not stated in his FIR that Dhanabhai has burnt his slum. When applicant, who was the complainant, has not supported his own complaint and say of the prosecution, prosecution might not have examined other witnesses which ultimately resulted in acquitting the opponents-accused.

7. After perusing the evidence and FIR, I am of the view that prosecution has totally failed to prove the case against the accused and, therefore, the judgment and order passed by the learned Chief Judicial Magistrate, Rajkot, in Criminal Case No.52 of 1996 is not required to be interfered with.

8. This Criminal Revision Application is, therefore, rejected. Notice is discharged. Rule is discharged.

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